

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

GREGORY THOMAS LYON

Applicant for Registered Nurse License

Respondent

Case No. 2012 – 268

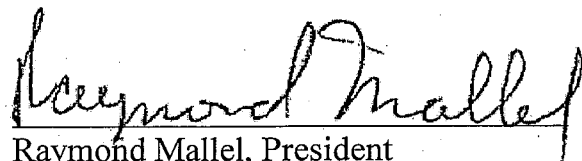
OAH No. 2012010394

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on September 26, 2012.

IT IS SO ORDERED August 27, 2012.



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA
Deputy Attorney General
4 State Bar No. 120482
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2095
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **GREGORY THOMAS LYON**
14 **3315 Los Pinos Drive**
Santa Barbara, CA 93105

15 **Registered Nurse License**

16 Respondent.

Case No. 2012-268

OAH No. 2012010394

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
22 Board of Registered Nursing. She brought this action solely in her official capacity and is
23 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
24 Antoinette B. Cincotta, Deputy Attorney General.

25 2. Respondent Gregory Thomas Lyon (Respondent) is represented in this proceeding by
26 attorney Kevin C. Murphy, Esq., whose address is: 625 Broadway, Suite 600, San Diego, CA
27 92101.

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3. On or about December 1, 2010, Respondent filed an application dated November 25, 2010, with the Board of Registered Nursing to obtain a Registered Nurse License.

JURISDICTION

4. Statement of Issues No. 2012-268 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on November 1, 2011.

5. A copy of Statement of Issues No. 2012-268 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2012-268. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 2012-268.

10. Respondent agrees that his Registered Nurse License is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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1 3. **Report in Person.** Respondent, during the period of probation, shall appear in
2 person at interviews/meetings as directed by the Board or its designated representatives.

3 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
4 practice as a registered nurse outside of California shall not apply toward a reduction of this
5 probation time period. Respondent's probation is tolled, if and when he resides outside of
6 California. Respondent must provide written notice to the Board within 15 days of any change of
7 residency or practice outside the state, and within 30 days prior to re-establishing residency or
8 returning to practice in this state.

9 Respondent shall provide a list of all states and territories where he has ever been licensed
10 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
11 information regarding the status of each license and any changes in such license status during the
12 term of probation. Respondent shall inform the Board if he applies for or obtains a new nursing
13 license during the term of probation.

14 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
15 or cause to be submitted such written reports/declarations and verification of actions under
16 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
17 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
18 Respondent shall immediately execute all release of information forms as may be required by the
19 Board or its representatives.

20 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
21 state and territory in which he has a registered nurse license.

22 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
23 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
24 6 consecutive months or as determined by the Board.

25 For purposes of compliance with the section, "engage in the practice of registered nursing"
26 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
27 non-direct patient care position that requires licensure as a registered nurse.

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1 The Board may require that advanced practice nurses engage in advanced practice nursing
2 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

3 If Respondent has not complied with this condition during the probationary term, and
4 Respondent has presented sufficient documentation of his good faith efforts to comply with this
5 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
6 extension of Respondent's probation period up to one year without further hearing in order to
7 comply with this condition. During the one year extension, all original conditions of probation
8 shall apply.

9 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
10 prior approval from the Board before commencing or continuing any employment, paid or
11 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this Decision to his employer and immediate
15 supervisors prior to commencement of any nursing or other health care related employment.

16 In addition to the above, Respondent shall notify the Board in writing within seventy-two
17 (72) hours after he obtains any nursing or other health care related employment. Respondent
18 shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated,
19 regardless of cause, from any nursing, or other health care related employment with a full
20 explanation of the circumstances surrounding the termination or separation.

21 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
22 Respondent's level of supervision and/or collaboration before commencing or continuing any
23 employment as a registered nurse, or education and training that includes patient care.

24 Respondent shall practice only under the direct supervision of a registered nurse in good
25 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
26 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
27 approved.

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1 Respondent's level of supervision and/or collaboration may include, but is not limited to the
2 following:

3 (a) Maximum - The individual providing supervision and/or collaboration is present in
4 the patient care area or in any other work setting at all times.

5 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
6 care unit or in any other work setting at least half the hours Respondent works.

7 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
8 person communication with Respondent at least twice during each shift worked.

9 (d) Home Health Care - If Respondent is approved to work in the home health care
10 setting, the individual providing supervision and/or collaboration shall have person-to-person
11 communication with Respondent as required by the Board each work day. Respondent shall
12 maintain telephone or other telecommunication contact with the individual providing supervision
13 and/or collaboration as required by the Board during each work day. The individual providing
14 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
15 patients' homes visited by Respondent with or without Respondent present.

16 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
17 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
18 or for an in-house nursing pool.

19 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
20 registered nursing supervision and other protections for home visits have been approved by the
21 Board. Respondent shall not work in any other registered nursing occupation where home visits
22 are required.

23 Respondent shall not work in any health care setting as a supervisor of registered nurses.
24 The Board may additionally restrict Respondent from supervising licensed vocational nurses
25 and/or unlicensed assistive personnel on a case-by-case basis.

26 Respondent shall not work as a faculty member in an approved school of nursing or as an
27 instructor in a Board approved continuing education program.

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1 Respondent shall work only on a regularly assigned, identified and predetermined
2 worksite(s) and shall not work in a float capacity.

3 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
4 request documentation to determine whether there should be restrictions on the hours of work.

5 10. **Complete a Nursing Course(s).** Respondent, at his own expense, shall enroll and
6 successfully complete a course(s) relevant to the practice of registered nursing no later than six
7 months prior to the end of his probationary term.

8 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
9 Respondent shall submit to the Board the original transcripts or certificates of completion for the
10 above required course(s). The Board shall return the original documents to Respondent after
11 photocopying them for its records.

12 11. **Violation of Probation.** If Respondent violates the conditions of his probation, the
13 Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order
14 and impose the stayed discipline (revocation/suspension) of Respondent's license.

15 If during the period of probation, an accusation or petition to revoke probation has been
16 filed against Respondent's license or the Attorney General's Office has been requested to prepare
17 an accusation or petition to revoke probation against Respondent's license, the probationary
18 period shall automatically be extended and shall not expire until the accusation or petition has
19 been acted upon by the Board.

20 12. **License Surrender.** During Respondent's term of probation, if he ceases practicing
21 due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation,
22 Respondent may surrender his license to the Board. The Board reserves the right to evaluate
23 Respondent's request and to exercise its discretion whether to grant the request, or to take any
24 other action deemed appropriate and reasonable under the circumstances, without further hearing.
25 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
26 subject to the conditions of probation.

27 Surrender of Respondent's license shall be considered a disciplinary action and shall
28 become a part of Respondent's license history with the Board. A registered nurse whose license

1 has been surrendered may petition the Board for reinstatement no sooner than the following
2 minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any reason other
4 than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 13. **Physical Examination.** Within 45 days of the effective date of this Decision,
7 Respondent, at his expense, shall have a licensed physician, nurse practitioner, or physician
8 assistant, who is approved by the Board before the assessment is performed, submit an
9 assessment of the Respondent's physical condition and capability to perform the duties of a
10 registered nurse, including a determination as set forth below in the condition titled "Rule-Out
11 Substance Abuse Assessment." Such an assessment shall be submitted in a format acceptable to
12 the Board. If medically determined, a recommended treatment program will be instituted and
13 followed by the Respondent with the physician, nurse practitioner, or physician assistant
14 providing written reports to the Board on forms provided by the Board.

15 If Respondent is determined to be unable to practice safely as a registered nurse, the
16 licensed physician, nurse practitioner, or physician assistant making this determination shall
17 immediately notify the Board and Respondent by telephone, and the Board shall request that the
18 Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall
19 immediately cease practice and shall not resume practice until notified by the Board. During this
20 period of suspension, Respondent shall not engage in any practice for which a license issued by
21 the Board is required until the Board has notified Respondent that a medical determination
22 permits Respondent to resume practice. This period of suspension will not apply to the reduction
23 of this probationary time period.

24 If Respondent fails to have the above assessment submitted to the Board within the 45-day
25 requirement, Respondent shall immediately cease practice and shall not resume practice until
26 notified by the Board. This period of suspension will not apply to the reduction of this
27 probationary time period. The Board may waive or postpone this suspension only if significant,
28 documented evidence of mitigation is provided. Such evidence must establish good faith efforts

1 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
2 Only one such waiver or extension may be permitted.

3 14. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
4 of this Decision, have a mental health examination including psychological testing as appropriate
5 to determine his capability to perform the duties of a registered nurse, including a determination
6 as set forth below in the condition titled "Rule-Out Substance Abuse Assessment." The
7 examination will be performed by a psychiatrist, psychologist or other licensed mental health
8 practitioner approved by the Board. The examining mental health practitioner will submit a
9 written report of that assessment and recommendations to the Board. All costs are the
10 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
11 result of the mental health examination will be instituted and followed by Respondent.

12 If Respondent is determined to be unable to practice safely as a registered nurse, the
13 licensed mental health care practitioner making this determination shall immediately notify the
14 Board and Respondent by telephone, and the Board shall request that the Attorney General's
15 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
16 practice and may not resume practice until notified by the Board. During this period of
17 suspension, Respondent shall not engage in any practice for which a license issued by the Board
18 is required, until the Board has notified Respondent that a mental health determination permits
19 Respondent to resume practice. This period of suspension will not apply to the reduction of this
20 probationary time period.

21 If Respondent fails to have the above assessment submitted to the Board within the 45-day
22 requirement, Respondent shall immediately cease practice and shall not resume practice until
23 notified by the Board. This period of suspension will not apply to the reduction of this
24 probationary time period. The Board may waive or postpone this suspension only if significant,
25 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
26 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
27 Only one such waiver or extension may be permitted.

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1 15. **Rule-Out Substance Abuse Assessment.** If the examiner conducting the physical
2 and/or mental health examination determines that the respondent is dependent upon drugs or
3 alcohol, or has had problems with drugs or alcohol (i.e. drug dependence in remission or alcohol
4 dependence in remission), that might reasonably affect the safe practice of nursing, then the
5 respondent must further comply with the following additional terms and conditions of probation:

6 A. **Participate in Treatment/Rehabilitation Program for Chemical**

7 **Dependence.** Respondent, at his expense, shall successfully complete during the
8 probationary period or shall have successfully completed prior to commencement
9 of probation a Board-approved treatment/rehabilitation program of at least six
10 months duration. As required, reports shall be submitted by the program on forms
11 provided by the Board. If Respondent has not completed a Board-approved
12 treatment/rehabilitation program prior to commencement of probation,
13 Respondent, within 45 days from the effective date of the decision, shall be
14 enrolled in a program. If a program is not successfully completed within the first
15 nine months of probation, the Board shall consider Respondent in violation of
16 probation.

17 Based on Board recommendation, each week Respondent shall be required
18 to attend at least one, but no more than five 12-step recovery meetings or
19 equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse
20 support group as approved and directed by the Board. If a nurse support group is
21 not available, an additional 12-step meeting or equivalent shall be added.
22 Respondent shall submit dated and signed documentation confirming such
23 attendance to the Board during the entire period of probation. Respondent shall
24 continue with the recovery plan recommended by the treatment/rehabilitation
25 program or a licensed mental health examiner and/or other ongoing recovery
26 groups.

27 B. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
28 shall completely abstain from the possession, injection or consumption by any

1 route of all controlled substances and all psychotropic (mood altering) drugs,
2 including alcohol, except when the same are ordered by a health care professional
3 legally authorized to do so as part of documented medical treatment. Respondent
4 shall have sent to the Board, in writing and within fourteen (14) days, by the
5 prescribing health professional, a report identifying the medication, dosage, the
6 date the medication was prescribed, the Respondent's prognosis, the date the
7 medication will no longer be required, and the effect on the recovery plan, if
8 appropriate.

9 Respondent shall identify for the Board a single physician, nurse
10 practitioner or physician assistant who shall be aware of Respondent's history of
11 substance abuse and will coordinate and monitor any prescriptions for Respondent
12 for dangerous drugs, controlled substances or mood-altering drugs. The
13 coordinating physician, nurse practitioner, or physician assistant shall report to the
14 Board on a quarterly basis Respondent's compliance with this condition. If any
15 substances considered addictive have been prescribed, the report shall identify a
16 program for the time limited use of any such substances.

17 The Board may require the single coordinating physician, nurse
18 practitioner, or physician assistant to be a specialist in addictive medicine, or to
19 consult with a specialist in addictive medicine.

20 **C. Submit to Tests and Samples.** Respondent, at his expense, shall
21 participate in a random, biological fluid testing or a drug screening program which
22 the Board approves. The length of time and frequency will be subject to approval
23 by the Board. Respondent is responsible for keeping the Board informed of
24 Respondent's current telephone number at all times. Respondent shall also ensure
25 that messages may be left at the telephone number when he is not available and
26 ensure that reports are submitted directly by the testing agency to the Board, as
27 directed. Any confirmed positive finding shall be reported immediately to the
28 Board by the program and Respondent shall be considered in violation of

1 probation.

2 In addition, Respondent, at any time during the period of probation, shall
3 fully cooperate with the Board or any of its representatives, and shall, when
4 requested, submit to such tests and samples as the Board or its representatives may
5 require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other
6 controlled substances.

7 If Respondent has a positive drug screen for any substance not legally
8 authorized and not reported to the coordinating physician, nurse practitioner, or
9 physician assistant, and the Board files a petition to revoke probation or an
10 accusation, the Board may suspend Respondent from practice pending the final
11 decision on the petition to revoke probation or the accusation. This period of
12 suspension will not apply to the reduction of this probationary time period.

13 If Respondent fails to participate in a random, biological fluid testing or
14 drug screening program within the specified time frame, Respondent shall
15 immediately cease practice and shall not resume practice until notified by the
16 Board. After taking into account documented evidence of mitigation, if the Board
17 files a petition to revoke probation or an accusation, the Board may suspend
18 Respondent from practice pending the final decision on the petition to revoke
19 probation or the accusation. This period of suspension will not apply to the
20 reduction of this probationary time period.

21 **D. Therapy or Counseling Program.** Respondent, at his expense, shall
22 participate in an on-going counseling program until such time as the Board
23 releases him from this requirement and only upon the recommendation of the
24 counselor. Written progress reports from the counselor will be required at various
25 intervals.

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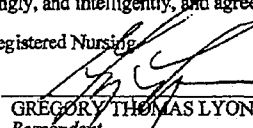
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1 ACCEPTANCE

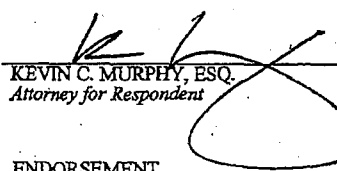
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Kevin C. Murphy, Esq. I understand the stipulation and the effect
4 it will have on my Registered Nurse License. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Registered Nursing.

7 DATED: 6/19/12

8 
GREGORY THOMAS LYON
Respondent

9 I have read and fully discussed with Respondent Gregory Thomas Lyon the terms and
10 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
11 I approve its form and content.

12 DATED: 6/20/12

13 
KEVIN C. MURPHY, ESQ.
Attorney for Respondent

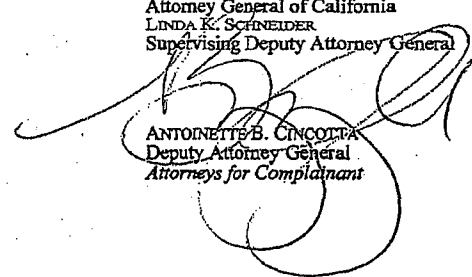
14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
16 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
17 Affairs.

18
19 Dated: 6/22/2012

20 Respectfully submitted,

21 KAMALA D. HARRIS
Attorney General of California
22 LINDA K. SCHNEIDER
Supervising Deputy Attorney General

23 
24 ANTOINETTE B. CINCOLTA
25 Deputy Attorney General
26 Attorneys for Complainant

27 LA2011600920
28 70580895.doc

Exhibit A

Statement of Issues No. 2012-268

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Statement of Issues
12 Against:

Case No.

2012-268

13 **GREGORY THOMAS LYON**
14 **3315 Los Pinos Drive**
Santa Barbara, CA 93105

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about December 1, 2010, the Board of Registered Nursing, Department of
23 Consumer Affairs received an application for a Registered Nurse license by examination from
24 Gregory Thomas Lyon (Respondent). On or about November 25, 2010, Gregory Thomas Lyon
25 certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on February 15, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

STATUTORY PROVISIONS

5. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

6. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

1 (3) (A) Done any act that if done by a licentiate of the business or profession
2 in question, would be grounds for suspension or revocation of license.

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

6 7. Section 482 of the Code states:

7 Each board under the provisions of this code shall develop criteria to evaluate
8 the rehabilitation of a person when:

9 (a) Considering the denial of a license by the board under Section 480; or

10 (b) Considering suspension or revocation of a license under Section 490.

11 Each board shall take into account all competent evidence of rehabilitation
12 furnished by the applicant or licensee.

13 8. Section 493 of the Code states:

14 Notwithstanding any other provision of law, in a proceeding conducted by a
15 board within the department pursuant to law to deny an application for a license or to
16 suspend or revoke a license or otherwise take disciplinary action against a person who
17 holds a license, upon the ground that the applicant or the licensee has been convicted
18 of a crime substantially related to the qualifications, functions, and duties of the
19 licensee in question, the record of conviction of the crime shall be conclusive
20 evidence of the fact that the conviction occurred, but only of that fact, and the board
21 may inquire into the circumstances surrounding the commission of the crime in order
22 to fix the degree of discipline or to determine if the conviction is substantially related
23 to the qualifications, functions, and duties of the licensee in question.

24 As used in this section, "license" includes "certificate," "permit," "authority,"
25 and "registration."

26 9. Section 2761 of the Code states:

27 The board may take disciplinary action against a certified or licensed nurse or
28 deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the
following:

....
(4) Denial of licensure, revocation, suspension, restriction, or any other
disciplinary action against a health care professional license or certificate by another
state or territory of the United States, by any other government agency, or by another
California health care professional licensing board. A certified copy of the decision
or judgment shall be conclusive evidence of that action.

....

1 (f) Conviction of a felony or of any offense substantially related to the
2 qualifications, functions, and duties of a registered nurse, in which event the record of
3 the conviction shall be conclusive evidence thereof.

4 10. Section 2765 of the Code states:

5 A plea or verdict of guilty or a conviction following a plea of nolo contendere
6 made to a charge substantially related to the qualifications, functions and duties of a
7 registered nurse is deemed to be a conviction within the meaning of this article. The
8 board may order the license or certificate suspended or revoked, or may decline to
9 issue a license or certificate, when the time for appeal has elapsed, or the judgment of
10 conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under the
12 provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his
13 or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of
14 guilty, or dismissing the accusation, information or indictment.

15 REGULATORY PROVISIONS

16 11. California Code of Regulations, title 16, section 1444 states:

17 A conviction or act shall be considered to be substantially related to the
18 qualifications, functions or duties of a registered nurse if to a substantial degree it
19 evidences the present or potential unfitness of a registered nurse to practice in a
20 manner consistent with the public health, safety, or welfare. Such convictions or acts
21 shall include but not be limited to the following:

22 (a) Assaultive or abusive conduct including, but not limited to, those violations
23 listed in subdivision (d) of Penal Code Section 11160.

24 (b) Failure to comply with any mandatory reporting requirements.

25 (c) Theft, dishonesty, fraud, or deceit.

26 (d) Any conviction or act subject to an order of registration pursuant to Section
27 290 of the Penal Code.

28 12. California Code of Regulations, title 16, section 1445 states:

(a) When considering the denial of a license under Section 480 of the code,
the board, in evaluating the rehabilitation of the applicant and his/her present
eligibility for a license will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as
grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)
under consideration as grounds for denial which also could be considered as grounds
for denial under Section 480 of the code.

1 (3) The time that has elapsed since commission of the act(s) or crime(s)
2 referred to in subdivision (1) or (2).

3 (4) The extent to which the applicant has complied with any terms of parole,
4 probation, restitution, or any other sanctions lawfully imposed against the applicant.

5 (5) Evidence, if any, of rehabilitation submitted by the applicant.

6

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 **(January 30, 2007 Criminal Conviction for Battery on November 18, 2006)**

9 13. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
10 and 2671, subdivision (f) of the Code in that he was convicted of a crime that is substantially
11 related to the qualifications, duties, and functions of a registered nurse. The circumstances are as
12 follows:

13 a. On or about January 30, 2007, in a criminal proceeding entitled *People of*
14 *the State of California v. Gregory Thomas Lyon*, in Santa Barbara Superior Court, case number
15 1216956, Respondent was convicted on his plea of no contest to violating Penal Code section
16 242, battery, a misdemeanor.

17 b. As a result of the conviction, on or about January 30, 2007, Respondent
18 was sentenced to one day in jail, with credit for time served, and ordered to serve three years
19 supervised probation. Respondent was further ordered to complete a one-year batterer's program,
20 perform 20 hours of Community Work Service, attend one AA class per week, pay fees, fines,
21 and restitution, and comply with the terms of a domestic violence protective order.

22 c. The facts that led to the conviction are that on or about the evening of
23 November 18, 2006, the Santa Barbara Police Department was dispatched to a report of a
24 domestic violence incident at the residence Respondent shared with his wife and daughter.
25 According to statements made by his wife and daughter, Respondent made verbal and written
26 threats stating that he was going to kill his wife. A physical altercation ensued and Respondent
27 shoved his daughter against a refrigerator and elbowed her in the shoulder. The police report
28 indicated that Respondent was under the influence.

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1 b. As a result of the conviction, on or about March 18, 2008, Respondent was
2 sentenced to six days in jail, with credit for six days, and ordered to serve three years
3 unsupervised probation. Respondent was further ordered to pay fees, fines, and restitution, and
4 comply with the terms of the protective order.

5 c. The facts that led to the conviction are that on or about March 8, 2008, the
6 Santa Barbara Police Department was dispatched to Respondent's residence regarding a domestic
7 violence incident. Respondent told the police officer that he was in violation of his probation
8 because he had been drinking and arguing with his wife. The officer determined that there was a
9 valid protective order restraining Respondent from harassing or annoying his wife and daughter.
10 Witnesses statements indicated that Respondent had been drinking alcohol all day and had
11 harassed and annoyed the victims. Respondent was arrested for violating the protective order.

12 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

13 **(Disciplinary Action by Another Healthcare Agency)**

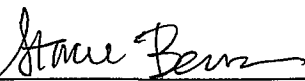
14 16. Respondent's application is subject to denial under section 2761, subdivision (a)(4) of
15 the Code in that on or about August 25, 2010, the California Department of Public Health notified
16 Respondent that his Certified Nurse Assistant License number CNA 683710 and Home Health
17 Aide certification was revoked based on Respondent's January 30, 2007, conviction for battery,
18 as detailed in paragraph 13, above.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

- 22 1. Denying the application of Gregory Thomas Lyon for a Registered Nurse License;
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: October 27, 2011

25 *for* 
26 LOUISE R. BAILEY, M.ED., RN
27 Executive Officer
28 Board of Registered Nursing
 Department of Consumer Affairs
 State of California
 Complainant

LA2011600920